



**Rules and Ancillary Document Review Checklist**  
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title):

**Chapter 458-28 WAC - Taxation Of Financial Businesses By Cities Or Towns**

Date last adopted: **9/29/72**

Reviewer: **Cindy Evans**

Date review completed: **2/14/00**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES", provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). YES ☐ NO ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Explain the goal(s) and purpose(s) of the document:**

**Chapter 458-28 WAC - Taxation of Financial Businesses By Cities Or Towns**

The goal and purpose of these rules are to provide guidance on the application of RCW 82.14A, which provides for the taxation of financial institutions by cities or towns. WAC 458-28-020 defines "gross income" and gives examples, relevant to financial institutions, of "income" to be included in gross income. WAC 458-28-030 sets out what may be deducted from a financial institution's gross income for tax computation purposes. Finally, WAC 458-28-040 provides for the division of a financial institution's income when it has more than one place of business that are located in different cities or towns.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the



		recommendation must be to repeal the document.)
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Please explain.

**These rules are needed because they provide instruction on the computation and division of gross income for financial institutions that are subject to taxation by cities and towns.**

**3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete**

Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?



	<b>X</b>	Do any administrative changes within the Department warrant repealing or revising this document?
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Please explain. **The rules are clear and well organized. These rules reduce the need for financial institutions and cities or towns to search multiple chapters or multiple statutes to determine income taxable to a city or town.**

**The Department has adopted WAC 458-20-14601, which provides income apportionment instructions for financial institutions doing business both inside and outside the state of Washington. These instructions became mandatory on January 1, 2000, and provide a different apportionment method. The Department may want to explore the feasibility of adopting a similar apportionment method in Chapter 458-28 WAC, but, at this time, the Department should retain the current method used to apportion income to instate locations.**

**5. Intent and Statutory Authority:**

YES	NO	
<b>X</b>		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
<b>X</b>		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	<b>X</b>	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **RCW 82.32.300 authorizes the Department of Revenue to make and publish rules and RCW 82.14A.020 directs the Department to promulgate rules establishing uniform methods of division of gross income.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	<b>X</b>	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **RCW 82.14A allows for the imposition of license fees or taxes on financial institutions by cities and towns but requires the Department to adopt rules establishing uniform method for dividing gross income between different cities and towns.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	<b>X</b>	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)



Please explain. **These are interpretive rules that impose no new or additional administrative burdens on businesses that are not imposed by law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain. The statutes and rules affect all similarly situated taxpayers in the same fashion.

**9. LISTING OF DOCUMENTS REVIEWED:** (Use "bullets" with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

- **RCW 82.14A.010 License fees or taxes on financial institutions -- Restrictions -- Application of chapter 82.04 RCW -- Rates.**
- **RCW 82.14A.020 Division of gross income of business between cities, towns and unincorporated areas.**
- **RCW 82.14A.030 Effective date of resolutions or ordinances.**
- **RCW 82.14A.900 Effective date -- 1972 ex.s. c 134.**

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Court Decisions:

***The City of Tacoma v. Seattle-First National Bank*, 105 Wn.2d 663, 717 P.2d 760 (1986).** The city may define its taxation categories as it sees fit only if not restrained by legislative enactment. **RCW 82.14A.010** is a restraining enactment.

***Financial Pacific Leasing v. Tacoma*, 113 Wn.2d 143, 776 P.2d 136 (1989).** A "leasing company" does not fall within the definition of "financial institution" as defined in **RCW 35.38.060** or **RCW 30.43.010** [now repealed] and, therefore, the city can subject a leasing company to a higher municipal business and occupation tax rate than paid by a bank engaged in similar leasing activities. (Additionally, the court held that there was no equal protection violation.)

***Enterprise Leasing v. City of Tacoma*, 93 Wn. App. 663, 970 P.2d 339 (1999), *aff'd en banc*, 139 Wn.2d 546, 988 P.2d 961 (1999).** Unless restrained by a constitutional provision or a



**specific, express legislative enactment, a local jurisdiction authorized to tax business activity may define its taxation categories and set its rate of taxation as it sees fit.**

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

**10. Review Recommendation:**

\_\_\_\_\_ Amend

\_\_\_\_\_ Repeal

☒ Leave as is

\_\_\_\_\_ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

\_\_\_\_\_ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

**Explanation of recommendation:** (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

**There is no need to revise these rules at this time.**



**11. Manager action:**    Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed recommendation      \_\_\_\_\_ Accepted recommendation

\_\_\_\_\_ Returned for further action

Comments: